IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

C. W.P. No. 4404 of 2007
Date of decision: 22.03.2007

Maharishi Dayanand University, Rohtak .....*Petitioner*

Versus

Yag Dutt and another .....*Respondents*

CORAM: HON'BLE MR. JUSTICE JASBIR SINGH
HON'BL MRS. JUSTICE NIRMAL YADAV

Present: Mr. V D Sharma, Advocate for
Mr. R.S.Tacoria, Advocate
for the petitioner

JASBIR SINGH, J. (Oral)

This writ petition has been filed with a prayer to quash the Award dated 04.08.2006 (Annexure P-4), passed by the Industrial Tribunal-cum-Labour Court, Rohtak, ordering re-instatement of the respondent-workman with continuity of service and 50% back wages.

It has come on record that, initially, the respondent-workman was appointed for a period of six months, on expiry of that period, he was not asked to leave the job, rather, allowed to continue and thrown out of the service on 06.01.1997. In that process, he had completed 240 days. Admittedly, service of respondent-workman was terminated without payment of any compensation, the Court below on analyzing the evidence has observed, thus:-

"There is merit in the contention of the learned AR for the workman. Taking into consideration that the workman was

appointed on ad hoc basis for a period of 6 months and after expiry of the same the workman was never relieved from his job, rather he was formally relieved as per allegations of the management on 06.01.1997. No doubt no extension has been given to the workman. But since he was in service and he has also received the payment of the days for which he worked unauthorisedly as perversion of the management. But admittedly, he has been relieved on 06.01.1997 and thereafter on 18.12.1997 another person Raj Kumar son of Ram Kumar was appointed against the same post. It shows that the post was in existence when the workman was relieved and he has completed more than 240 days when service of the workman was terminated. Perusal of the file shows that the management has adopted the unfair labour practice because the noting of the personal file of the workman shows that the dealing hand has written that the workman is going to complete 240 days of his service and immediately after that the service of the workman was terminated without mentioning any reason. MW-1 has admitted in his cross examination that the work and conduct of the workman during his service period remained satisfactory. Not only this after relieving the workman one Raj Kumar son of Ram Kumar was employed on the same post. It means when service of the workman was terminated this post of draftsman was in existence. In this way the service of the workman has

been terminated in an arbitrary manner and it is case of violation of Section 25-F of the Industrial Disputes Act. The Management had relieved the workman on 06.01.1997 and Raj Kumar son of Ram Kumar was appointed on the same post on 18.12.1997. Raj Kumar was appointed because there was vacancy of draftsman and no extension was given to the workman. Hence, I decide this issue in favour of the workman and against the management."

We feel that the finding is perfectly justified. Nothing has been shown to the contrary, which may necessitate any interference. The very fact that on expiry of the period of six months, for which the respondent-workman was appointed, his service was not terminated, rather he was allowed to continue in service, would mean deemed extension of his service. No case is made out for interference.

Dismissed.

(JASBIR SINGH)
JUDGE

(NIRMAL YADAV)
JUDGE

March 22, 2007
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